

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:05CR3121
)	
v.)	TENTATIVE FINDINGS ON
)	DEFENDANT'S SENTENCING
GUILLERMO NIETO-NOGUEZ,)	STATEMENT AND OBJECTIONS BY THE
)	DEFENDANT TO PARAGRAPH 37 OF
Defendant.)	THE REVISED PRESENTENCE
)	INVESTIGATION REPORT

In the defendant's Sentencing Statement he asks for a downward departure by reducing his criminal history category from a V to a IV because of the age of the 1988 conviction "which spans the otherwise applicable 15 year time period and which gives him three criminal history category points." He then asks for an evidentiary hearing on the issue and says he will submit documentary evidence in support of his downward departure motion prior to his sentencing hearing. He asks for 15 minutes for argument.

IT IS ORDERED that:

1. an evidentiary hearing at the time of the sentencing hearing shall be had, at which documentary evidence will be permitted, but no live testimony has been requested;
2. the objection by the defendant to paragraph 37, relating to the same transaction as in the motion for downward departure, a part of the defendant's sentencing statement, is held in abeyance until resolution at the sentencing hearing; and.
3. other than the criminal history appearing in paragraph 37 of the Revised Presentence Investigation Report, I tentatively find that the Revised Presentence

Investigation Report is accurate.

Dated March 22, 2006.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge